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IN THE CLAIMS

Please amend claims 1, 29, 31-33, 40, 42, 45-47 and 49-50 as indicated in the following list of pending claims.

PENDING CLAIMS

1. (Currently Amended) A biopsy instrument for retrieving body tissue, ~~having a longitudinal axis and comprising:~~

An elongated shaft having a longitudinal axis, a tissue penetrating distal end adapted for tissue penetration and a distal shaft portion proximal to the distal end;

an electrosurgical cutting element coupled to the distal shaft portion which is energizable by radio frequency energy, which is longitudinally disposed on ~~[[a]] the distal shaft portion of the instrument,~~ which is actuatable between a radially retracted position and a radially extended position, relative to said axis distal shaft portion, and which is rotatable in said radially extended position about the longitudinal axis of the shaft when energized by radio frequency energy to isolate a desired intact tissue specimen from tissue surrounding the shaft by defining a peripheral margin about said tissue specimen;

an electrical conductor having a distal end electrically connected to the electrosurgical cutting element and a proximal end configured to be connected to a source for radio frequency energy to deliver radio frequency energy from the source to the electrosurgical cutting element;  
and

an encapsulation component ~~[[on]]~~ coupled to the distal shaft portion of the instrument configured to encapsulate the isolated intact tissue specimen and securing the intact tissue specimen to the distal shaft portion to facilitate removal of the intact tissue specimen from a patient's body along with removal of the instrument.

2-28. (Cancelled)

29. (Currently Amended) A method for retrieving a tissue specimen from a patient's body, comprising:

providing a biopsy instrument having a longitudinal axis, a tissue penetrating distal end, a distal shaft portion proximal to the distal end, an axially disposed electrosurgical tissue cutting element coupled to the distal shaft portion and an encapsulation component coupled to the distal shaft portion to encapsulate a tissue specimen isolated by the electrosurgical cutting element;

inserting the biopsy instrument into the patient's body and advancing the instrument therein until the ~~an instrument having a distal [[end]] shaft portion[[,]]~~ a longitudinal axis, and an axially disposed electrosurgical cutting element energizable by radio frequency energy, so that the distal end is disposed in a tissue region from which the tissue specimen is to be taken;

radially extending the electrosurgical tissue cutting element so that a portion thereof is radially outwardly spaced from the axis of the instrument shaft;  
energizing the electrosurgical cutting element by delivering radiofrequency energy thereto;

rotating the energized cutting element about the axis while delivering radio frequency energy thereto to cut the tissue and create a peripheral boundary about the tissue specimen so as to isolate the tissue specimen intact from surrounding tissue in the tissue region; and expanding the encapsulating component and moving the expanded encapsulating component to encapsulate the isolated tissue specimen intact and securing to secure the specimen to the distal shaft portion to facilitate removing the instrument and the specimen secured thereto from the patient's body.

30. (Canceled)

31. (Currently Amended): The method as recited in claim 29, wherein the encapsulating component is ~~includes~~ radially expanding at least one encapsulating element so that a portion thereof is radially outwardly spaced from the axis of the instrument expanded and ~~rotating the instrument~~ rotated about ~~[[its]]~~ the axis so that the at least one encapsulating element encloses to enclose the tissue specimen.

32. (Currently Amended): The method as recited in claim 31, wherein ~~said at least one~~ the encapsulating element comprises a plurality of encapsulating bands which are disposed axially along said instrument.

33. (Currently Amended): The method as recited in claim 29, ~~and further comprising proximally withdrawing said instrument, with the encapsulated tissue specimen, from the patient's body, including~~ wherein the instrument is withdrawn from the patient with the electrosurgical cutting element in an at least partially expanded configuration and energized so as to cut the step of cutting tissue as the instrument is withdrawn.

34-39. (Canceled)

40. (Currently Amended) An instrument assembly for isolating a tissue specimen from an intracorporeal site within a patient, comprising:

- a. an elongate shaft which has a longitudinal axis, [[and]] a tissue penetrating distal end and a distal shaft portion proximal to the distal end; and
- b. an electrosurgical tissue cutting component coupled to the distal shaft portion which is energizable by radio frequency energy, which is radially extendable from a retracted position to an extended position and which is configured to create a peripheral boundary about the tissue specimen and electrosurgically isolate a desired tissue specimen intact from surrounding tissue at the site; [[and]]
- c. an electrical conductor having a distal end electrically connected to the electrosurgical cutting element and a proximal end configured to be connected to a source for radio frequency energy; and
- d. a tissue collection component coupled to the distal portion of the shaft which is configured to encapsulate the isolated tissue specimen intact from the surrounding tissue at the site and securing the intact specimen to the distal portion to facilitate removal of the specimen with removal of the assembly from the patient.

41. (Previously Presented) The instrument assembly of claim 40, wherein the tissue collection component is configured to maintain the encapsulated tissue specimen intact.

42. (Currently Amended) The instrument assembly of claim 40, wherein the tissue cutting component is longitudinally disposed on the elongate distal shaft ~~proximal of the distal end of the shaft portion~~.

43. (Previously Presented) The instrument assembly of claim 42, wherein the tissue cutting component is configured to be rotated at least in part about the longitudinal axis in the radially extended position to isolate the tissue specimen.

44. (Previously Presented) The instrument assembly of claim 43, wherein both the cutting component and the tissue collection component are movable from a retracted position to an expanded position.

45. (Currently Amended) An excisional device for cutting and removing a specimen of breast tissue from a patient, comprising:

- a. an elongate shaft having a tissue penetrating distal tip, a proximal shaft portion and a distal shaft portions portion proximal to the distal tip;
- b. an electrosurgical tissue cutting component which is ~~disposed~~ coupled to and longitudinally oriented on the distal shaft portion ~~of the shaft~~, which is energizable by radio frequency energy and which is configured to electrosurgically cut the specimen of breast tissue from surrounding breast tissue;
- c. an electrical conductor having a distal end electrically connected to the electrosurgical cutting component and a proximal end configured to be connected to a source for radio frequency energy; and
- d. a tissue encapsulation component coupled to the distal shaft portion ~~of the shaft~~ which is configured to encapsulate the cut specimen and maintain the encapsulated intact specimen to facilitate removal of the specimen

upon removal of the device from the patient, both the cutting component and the tissue encapsulation component being movable from a retracted position to an expanded position.

46. (Currently Amended) The excisional device of claim 45, wherein the tissue encapsulation component has a proximal end and a distal end and which is configured to move one end closer to the other end to effect radial extension from the retracted position to ~~[[a]] an arcuate~~ radial extended ~~areuate~~ position.

47. (Currently Amended) The excisional device of claim ~~[[45]]~~ 46, wherein the tissue encapsulation component is configured so that the distal end is fixed and the proximal end moves toward the distal end.

48. (Previously Presented) The excisional device of claim 45, wherein the tissue encapsulation component and the tissue cutting component are configured to expand and retract together.

49. (Currently Amended) An instrument for cutting, encapsulating and removing a tissue specimen from a patient's body, comprising:

- a. an elongate shaft which has a tissue penetrating distal end, a distal shaft portion proximal to the distal end and a longitudinal axis
- b. an electrosurgical tissue cutting component which is energizable by radio frequency energy, which is coupled to and is disposed longitudinally on the distal shaft portion ~~of the elongate shaft~~ and aligned with the longitudinal axis, which is radially extendable from a retracted position to an extended position relative to the longitudinal axis, which has an arcuate shape in the extended position and which is movable in the radially extended position about the longitudinal axis to isolate a desired tissue

specimen intact from surrounding tissue by defining a peripheral margin about said tissue specimen;

- c. an electrical conductor having a distal end electrically connected to the electrosurgical cutting component and a proximal end configured to be connected to a source for radio frequency energy; and
- d. an encapsulation component ~~[[on]]~~ coupled to the distal shaft portion for encapsulating the tissue specimen intact after it has been isolated from surrounding tissue and securing the intact specimen to the distal shaft portion to facilitate removing the intact tissue specimen from the patient's body upon removal of the instrument from the patient.

50. (Currently Amended) The instrument of claim 49, wherein the instrument has a distal tissue cutting element on the distal end with a linear cutting surface disposed on the distal end of the shaft to facilitate accessing the tissue specimen within the patient's body.

51. (Previously Presented) The instrument of claim 49, wherein the encapsulation component has a plurality of encapsulation elements which are radially extendable from a retracted position to an extended position.